

Assembly Bill No. 1978

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

Passed the Senate August 27, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 10850.4 of, and to add Section 10605.5 to, the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, Jones-Sawyer. Child welfare services.

Under existing law, the State Department of Social Services oversees the administration of county public social services, including child welfare services. Existing law authorizes the department to conduct or have conducted audits and reviews in order to meet its obligations for child welfare programs and to ensure the protection of children and families.

This bill would require the department, in consultation with counties and labor organizations, to establish a process, no later than January 1, 2016, to receive voluntary disclosures from social workers, if a social worker has reasonable cause to believe that a policy, procedure, or practice related to the provision of child welfare services by a county child welfare agency, as defined, endangers the health or well-being of a child or children, as specified. The bill would prohibit the department from disclosing to any person or entity the identity of a social worker making a disclosure pursuant to these provisions, unless the social worker has consented to the disclosure or there is an immediate risk to the health and safety of a child. The bill would require the department, no later than January 1, 2018, to report to the Legislature, and post on its Internet Web site, the total number of relevant disclosures received and a summary description of the issues raised in those disclosures and of the actions taken by the department in response to those disclosures.

Existing law authorizes the department and the county welfare department or agency to comment on a child fatality once certain documents from the child's case file have been released by the custodian of records, within the scope of the release.

This bill would additionally authorize a county child welfare social worker to comment for purposes of these provisions, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. (a) This act shall be known as the Child Welfare Social Worker Empowerment and Foster Child Protection Act.

(b) The Legislature finds and declares that, while California foster children are in foster care, they are uniquely dependent upon the lawful, efficient, and competent delivery of state and local government services and implementation of state and federal law.

(c) The Legislature further finds and declares that county child welfare social workers who implement state and federal policy related to the delivery of services and implementation of programs benefitting foster children should have an avenue to suggest cost-saving efficiencies in the delivery of services to foster children, in a fashion that is transparent and accountable to the public.

SEC. 2. Section 10605.5 is added to the Welfare and Institutions Code, to read:

10605.5. (a) (1) The department, in consultation with counties and labor organizations, shall establish, no later than January 1, 2016, a process to receive voluntary disclosures from social workers, if a social worker has reasonable cause to believe that a policy, procedure, or practice, related to the provision of child welfare services by a county child welfare agency, meets any of the following conditions:

- (A) Endangers the health or well-being of a child or children.
- (B) Is contrary to existing statute or regulation.
- (C) Is contrary to public policy.

(2) Notwithstanding any other law, the department shall not disclose to any person or entity the identity of a social worker making a disclosure described in paragraph (1), unless (A) the social worker has consented to the disclosure or (B) there is an immediate risk to the health and safety of a child.

(b) The department shall make available a description of the process established pursuant to subdivision (a) to counties and labor organizations.

(c) For purposes of this section, “county child welfare agency” includes a county welfare department, child welfare department, and any other county agency that employs social workers and is responsible for the placement and supervision of children and youth in foster care, including department social workers contracted by counties to perform direct adoption services.

(d) (1) No later than January 1, 2018, the department shall report to the Legislature only the following information:

(A) The total number of relevant disclosures received from social workers, including the month and year the disclosure was received.

(B) A summary description of both of the following:

(i) The issues raised in the disclosures received from a social worker.

(ii) The actions taken by the department in response to the disclosures.

(2) No later than January 1, 2018, the department shall post on its Internet Web site the information described in paragraph (1).

(3) The report required pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Section 10850.4 of the Welfare and Institutions Code is amended to read:

10850.4. (a) Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the custodian of records for the county child welfare agency, upon request, shall release the following information:

(1) The age and gender of the child.

(2) The date of death.

(3) Whether the child was in foster care or in the home of his or her parent or guardian at the time of death.

(4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

(b) All cases in which abuse or neglect leads to a child’s death shall be subject to the disclosures required in subdivision (c). Abuse

or neglect is determined to have led to a child's death if one or more of the following conditions are met:

(1) A county child protective services agency determines that the abuse or neglect was substantiated.

(2) A law enforcement investigation concludes that abuse or neglect occurred.

(3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.

(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

(1) All of the information in subdivision (a).

(2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:

(A) The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

(B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:

(A) Records pertaining to the foster parents' initial licensing and renewals and type of license or licenses held, if in the case file.

(B) All reported licensing violations, including notices of action, if in the case file.

(C) Records of the training completed by the foster parents, if in the case file.

(d) The documents listed in subdivision (c) shall be released to the public by the custodian of records within 10 business days of the request or the disposition of the investigation, whichever is later.

(e) (1) Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:

(A) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).

(B) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.

(C) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.

(2) (A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph (C) of paragraph (1) and setting forth standards governing redactions.

(B) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to Section 827 and this section at the 2007–08 Regular Session of the Legislature through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those changes, no later than January 1, 2009.

(C) The adoption of regulations pursuant to this paragraph shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted for filing with the Secretary of State and shall remain in effect for

no more than 180 days, by which time the final regulations shall be adopted.

(f) Upon receiving a request for the documents listed in subdivision (c), the custodian of records shall notify and provide a copy of the request upon counsel for any child who is directly or indirectly connected to the juvenile case file. If counsel for a child, including the deceased child or any sibling of the deceased child, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.

(g) Documents from the juvenile case file, other than those listed in paragraphs (2) and (3) of subdivision (c), shall only be disclosed upon an order by the juvenile court pursuant to Section 827.

(h) Once documents pursuant to this section have been released by the custodian of records, the State Department of Social Services or the county welfare department or agency may comment on the case within the scope of the release. If the county welfare department or agency comments publicly about the case within the scope of the release pursuant to this subdivision, the social worker on the case may also comment publicly about the case within the scope of the release.

(i) Information released by a custodian of records consistent with the requirements of this section does not require prior notice to any other individual.

(j) Each county welfare department or agency shall notify the State Department of Social Services of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on these notices and any other relevant information in the State Department of Social Services' possession, the department shall annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information. The State Department of Social Services, after consultation with interested stakeholders, shall provide instructions by an all-county letter regarding the procedure for notification.

(k) For purposes of this section, the following definitions apply:

(1) "Child abuse or neglect" has the same meaning as defined in Section 11165.6 of the Penal Code.

(2) “Custodian of records,” for the purposes of this section and paragraph (2) of subdivision (a) of Section 827, means the county welfare department or agency.

(3) “Juvenile case files” or “case files” include any juvenile court files, as defined in Rule 5.552 of the California Rules of Court, and any county child welfare department or agency or State Department of Social Services records regardless of whether they are maintained electronically or in paper form.

(4) “Substantiated” has the same meaning as defined in Section 11165.12 of the Penal Code.

(l) A person disclosing juvenile case file information as required by this section shall not be subject to suit in civil or criminal proceedings for complying with the requirements of this section.

(m) This section shall apply only to deaths that occur on or after January 1, 2008.

(n) Nothing in this section shall require a custodian of records to retain documents beyond any date otherwise required by law.

(o) Nothing in this section shall be construed as requiring a custodian of records to obtain documents not in the case file.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which adds Section 10605.5 to the Welfare and Institutions Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to encourage the disclosure of policies, procedures, or practices relating to the provision of child welfare services by a county child welfare agency that a social worker has reasonable cause to believe endangers the health or well-being of a child or children, the identity of a social worker who makes these disclosures should be kept confidential.

Approved _____, 2014

Governor